

REMARKS

Reconsideration is respectfully requested. Claims 1-8 and 10-42 are currently pending.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 1-8 and 10-41 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and claim the subject matter with the applicants regard as the invention.

The Examiner has stated that the term “green regenerative tissue” is unclear because there is no teaching of how to differentiate “green” tissue from “non-green” tissue.

Applicant respectfully disagree with the Examiner’s rejection and the above characterization. “Definiteness of claim language must be analyzed in, not in a vacuum, but in light of: (A) The content of the particular application disclosure; (B) The teachings of the prior art; and (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” MPEP § 2173.02. In this instance, the specification clearly conveys to one of skill in the art what the term “green regenerative tissue” means. The specification makes clear that it is not merely “green” tissue. See, for example, page 4 of the specification. “Dim light conditions also permit one to screen for green portions of the callus (for barley, for example; yellow-green portions for wheat).” Moreover, the specification clearly conveys to one of ordinary skill in the art what exactly is meant by the term “green regenerative tissues.” Page 64 of the specification indicates that the tissue has morphological characteristics that would allow one of skill in the art to differentiate between that which is “green regenerative tissue” and that which is not. Therefore, the term “green regenerative tissue” is definite.

The Examiner has rejected claims 1-8 and 10-41 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and claim the subject matter with the applicants regard as the invention.

The Examiner has stated that claim 1 is indefinite because it is not clear whether the dim light conditions apply to both culturing steps.

Applicant respectfully disagree with the Examiner's rejection and the above characterization. The limitation of the dim light only appears in the first culturing step. Since the second culturing step has no such limitation, the dim light only applies to the first culturing step.

CONCLUSION

In light of the above, applicants submit that the pending claims are in condition for allowance. Should there be any remaining issues that remain unresolved, the Examiner is encouraged to contact the undersigned by telephone.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 416272002220. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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By:


Otis B. Littlefield
Registration No. (48,751)

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6237
Facsimile: (415) 268-7522